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Supreme Court of the United States

OCTOBER TERM 1957

No. 14, Original

STATE OF CALIFORNIA,

Plaintiff,

against

STATE OF WASHINGTON,

Defendant.

MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE*

AND

BRIEF OF *AMICUS CURIAE* IN SUPPORT OF COMPLAINT

LOUIS J. LEFKOWITZ,
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Solicitor General,
of Counsel.

BATAVIA TIMES, LAW PRINTERS,
BATAVIA, N. Y.

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Supreme Court of the United States

OCTOBER TERM 1957

No. 13 Original

STATE OF CALIFORNIA,

Plaintiff,

against

STATE OF WASHINGTON,

Defendant.

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Comes now Louis J. Lefkowitz, Attorney General of the State of New York, and moves this Honorable Court for leave to file the annexed brief herein as *Amicus Curiae* in support of the position taken by the plaintiff in its complaint herein.

LOUIS J. LEFKOWITZ,
Attorney General of the State
of New York,
The Capitol,
Albany 1, New York.

March 20, 1958.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1957

No. 13 Original

STATE OF CALIFORNIA,

Plaintiff,

against

STATE OF WASHINGTON,

Defendant.

BRIEF OF THE STATE OF NEW YORK *AMICUS CURIAE*

Statement

The State of California has shown in its complaint that it is a State in which wine is produced in substantial quantities, and is exported from the State and moves in interstate commerce.

The State of New York is likewise a wine-producing State, and wine produced in it is also sent to consumers without the State and moves in interstate commerce. While public records are not kept to show the addresses of consumers, the fact is that wines to the value of $4,000,000, in round numbers, are sent out from New York in interstate commerce each year.

While substantially all of this merchandise is sold to consumers east of the Mississippi River, yet if the statutes which have been adopted by the State of Washington

should be upheld, it is a safe assumption that eastern wine-producing States (Michigan, New Jersey, Ohio and Pennsylvania), in which New York wines are in substantial competition with local wines, would at once go about adopting hostile legislation and erecting trade barriers such as are complained of in the instant case.*

The protection of the wine industry of New York from unconstitutional discriminatory legislation passed by other States is of importance to its welfare. There are twenty wineries operating in New York State.† Their annual product is valued at two and a quarter million dollars. The gallonage thus represented is twelve and one-half million gallons. Two thousand workers are employed in the industry, plus part-time seasonal workers, concerning whom accurate data are not available. The annual payroll of the industry is about two million dollars.

We have set forth in Appendix "A", to which we beg leave to refer the Court, a true copy of a statistical report prepared jointly by the United States Department of Agriculture and the New York State Department of Agriculture and Markets.

We have further set forth in Appendix "B" and Appendix "C" data supplied to us by the United States Treasury Department, Internal Revenue Service, showing taxable withdrawals of wine in New York State.

---

* Michigan has already adopted hostile legislation. 13 Mich. Stat. Ann. § 18.987(1). So has New Jersey: L. 1940, ch. 83, § 2-b; L. 1949, ch. 276, § 2-a. These laws are also found in N. J. Stat. Ann., 33:1-10, §§ 2-a and 2-b.

† Plus 19 other organizations which either sell grapes, or make and sell bottled grape juice (not wine), or sell their product to out-of-the-State concerns. These may finally market the product as grape juice or as wine.

I

Precedents exist for recourse to the Court's original jurisdiction on facts such as are presented here.

While the State of New York does not itself carry on the business of selling wines, yet its citizens do; and that circumstance, it is submitted, entitles the State to stand side by side with the State of California, and join it in its remonstrance against the statutes of the State of Washington to which this Court's attention has been called in the plaintiff's brief. We may employ the language used in *Georgia* v. *Tennessee Copper Co.*, 206 U. S. 230 (1905), and say that the State of New York "has an interest independent of and behind the titles of its citizens" in wine and the profits from its distribution in the instant case, just as Georgia had an interest in the earth and air within its domain (p. 237) in the cited case.

Georgia v. *Pennsylvania R. Co.*, 324 U. S. 439 (1945), is also pertinent. This Court there recognized the right of Georgia as *parens patriae* to secure injunctive relief against an injury to its economy through discriminatory freight rates (p. 450). And if, as was there held (p. 452), a State is a "person" for the purpose of enforcing the civil sanctions of the anti-trust laws (especially Clayton Act, § 16 [15 U. S. Code, § 26]), a State should be deemed a "person" for the purposes of injunctive relief against statutes which are, in effect, tariff walls designed to exclude the products made by citizens of the plaintiff State.

Language in *Louisiana* v. *Texas*, 176 U. S. 1, 19 (1900), which is in seeming conflict with *Georgia* v. *Pennsylvania R. Co. supra*, should, we submit, be deemed overruled by the latter case.

II

The Washington statutes contravene the commerce clause.

(1)

The statutes of Washington seek to bring about a retrogression to colonial times. It is well known that "trade barriers, recriminations, intense commercial rivalries had plagued the colonies." *Georgia* v. *Pennsylvania R. Co.*, *supra*, at p. 452. Precisely these "plagues" are revived by the Washington statutes. We are able to cite three forms of discrimination deliberately set up by the statute and productive of trade barriers:

	Washington Wines	*California and New York Wines*
1.	May be distributed by producers directly or through privately incorporated wholesalers with whom producers are free to contract.	May only be distributed by the Washington state authorities.
2	Producers may fix the price at which they will sell to retail licensees.	The State of Washington fixes the prices at which wines from other States may be sold to retail licensees.
3.	Producers may employ salesmen and advertising to make Washington wine known to the market.	Persons offering wine from other States for sale may not employ salesmen to put it in the hands of retail licensees, nor advertise it.

(2)

Nothing is more obvious, when we look into the history of our country, than that the Washington statutes are *par excellence* "plagues" such as Mr. Justice DOUGLAS had in

mind in writing the opinion in *Georgia* v. *Pennsylvania R. Co., supra.*

Among pre-Revolutionary sources, we may cite 3 FARRAND'S *Records of the Federal Convention*, pp. 478, 547, 548; and *The Federalist*, Essay No. 42.

In WOODROW WILSON'S *History of the American People*, Vol. V, pages 32 and 34, we find the following:

> "A war of tariffs succeeded the war of arms—a war in which each state acted for itself * * * each state studied its own interest and knew not how to advance even that successfully. American commerce had everywhere the worst of it."

JOHN B. MCMASTER tells us the same story. In his *History of the People of the United States from the Revolution until the Civil War*, the matter is discussed in Vol. I, pp. 204-207. At p. 207, he says:

> "Congress had no power to regulate commerce but each state, left to itself, ordered its own trade in its own way; and the way of one state was always different from the way of another. The commerce which Massachusetts found it to her interest to encourage, Virginia found it to hers to restrict. New York would not protect the trade in indigo and pitch. South Carolina cared nothing for the success of the fir interests. New England derived great revenues from lumber, oil and potashes; Pennsylvania from corn and grain, and were in nowise concerned as to the prosperity of the trade of their neighbors. Articles which Connecticut and New Jersey excluded from their ports by heavy tonnage duties entered New York with scarcely any other charges than light money."

We ask the Court's permission to quote at some length from F. S. OLIVER, *Alexander Hamilton: An Essay on American Union* (1912), in which, in a passage characterized by great felicity of style, he says (pp. 134-135):

"Power, prosperity and consideration, which all men affected to desire, were only to be had on terms which the states could not bring themselves to pay. The dignified entreaties of Washington, the unanswerable reasoning of Hamilton, failed to move their light minds. The number of the plagues were still incomplete. The citizens hardened their hearts; preferring, like Pharaoh, to endure the murrain, the locusts, and the darkness, rather than abandon their mean jealousies, their rivalries at once sordid and malicious; rather than part with, or delegate, a single shred of local sovereignty to clothe the shivering and naked form of the federal government. Finally in their madness they fell one upon another; each at the beginning looking merely for advantages to itself in injury to its neighbours, but as time went on seeking injury to its neighbours even as an end desirable in itself.

The thirteen states proceeded to indulge themselves in the costly luxury of an internecine tariff war. The states with seaports preyed upon their land-locked brethren, and provoked a boycott in return. Pennsylvania attacked Delaware. Connecticut was oppressed by Rhode Island and New York. New Jersey, lying between New York on the one hand, and Pennsylvania on the other, was compared to 'a cask tapped at both ends'; North Carolina, between South Carolina and Virginia, to 'a patient bleeding at both stumps.' It was a dangerous game, ruinous in itself, and, behind the custom-house officers, men were beginning to furbish up the locks of their muskets."

See also Point IV, subd. (3), *infra*.

III

The Washington statutes violate the privileges and immunities clause (Art. IV, § 2).

What we have said in reference to the Commerce Clause is equally pertinent in the present context.

As we have shown, two thousand individuals in New York are engaged in the operation of the wine industry. Thirty-nine organizations are engaged in wine production. These persons, whether natural or artificial, are, when they seek the admission of their wines to the Washington market, or to the markets of such States nearer New York as may follow Washington's example, denied the privileges and immunities which Washington producers of wine enjoy—being deprived of the right to choose outlets for its sale, to fix its price, and to promote its sales by the usual instrumentalities of industry, *e. g.*, traveling salesmen and advertising.

IV

The Twenty-first Amendment does not authorize such enactments as are here assailed.

(1)

The Twenty-first Amendment, as everyone knows, was passed to withdraw from Congress the power conferred upon it by the Eighteenth Amendment. *United States* v. *Chambers*, 291 U. S. 217 (1934). Local regulation supplanted national regulation of the liquor traffic. *Carter* v. *Virginia*, 321 U. S. 131, 138 (1944). To make certain that the power which the States had always possessed to enact what are popularly called "prohibition" laws, the authors of the amendment inserted a paragraph reading as follows:

> "Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited."

We submit that the quoted portion of the amendment would validate the Washington statutes if they were designed to make Washington a "dry" State and protect its

citizens from the evils of excessive alcohol consumption. The commerce clause and the privileges and immunities clause have never been held to invalidate State legislation designed for the lofty purpose of promoting the health, safety, morals and general welfare of the people by controlling the use of alcoholic beverages.

But the Washington statutes do not seek to re-establish the joyless asceticism of liquor prohibition. They place no impediment to the free flow of hard liquor into the State, doubtless because little or no whiskey is distilled within the State (or so we are informed). Washington does not declare that its citizens may not purchase and consume wine. Its use is unrestricted, provided it is the product of Washington wineries. If other wines are desired, trade barriers must be climbed over, and artificially high prices paid.

Since the statutes do not prohibit the use of wine, but aim to make it flow more freely *within the State* by helping Washington grape growers to flourish behind protective tariff walls, the legislation is not saved from conflict with the commerce clause and the privileges and immunities clause by a constitutional amendment passed *al[illegible] intuitu*.

Furthermore, we submit that the Washington statutes do not make unlawful the "delivery or use therein of intoxicating liquors", within the meaning attributable to those words as used in the Twenty-first Amendment. On the subject of deliveries, all that Washington has enacted is not that the merchandise shall stop at the State line, but merely that deliveries must be made to the State monopoly or control board and not to private license holders. Wash. Rev. Code, 66.24.210, quoted in Appendix A to the Complaint, p. iii. This being so, we contend that the Twenty-first Amendment does not bar the relief prayed for in the complaint.

Less than three years after the Twenty-first Amendment had become the law of the land, this Court decided *State Board of Equalization of California* v. *Young's Market Co.*, 299 U. S. 59 (1936). The very title of the case shows that the Court was dealing with State revenues, not with the general welfare or health, for boards of equalization make revenue and the incidence of tax burdens their chief concern. The California statute, which the District Court had invalidated and which this Court restored to validity, imposed a license fee of $500 for the privilege of importing beer and a license fee of $750 for the privilege of manufacturing it locally. The plaintiffs were engaged in selling Missouri and Wisconsin beer at wholesale, and complained that the tax hindered interstate commerce. This Court held that the Twenty-first amendment made the argument worthless; and went on to say California could exclude imported beer while permitting its manufacture and sale within its borders (pp. 62-63). Since the statute imposed a license tax on local manufacturers which was larger than the tax imposed upon importers, and since the statute was attacked from within the State (and not by persons situated as are California and New York in the case at bar), much that was said about the Twenty-first Amendment assumes the quality of *obiter dicta*, particularly the statement (p. 62) that California may permit local manufacture and sale while retaining the right to prevent imported beverages from competing with the domestic on equal terms.

We strongly urge this Court to reaffirm the more latitudinarian doctrine formulated—it, too, was *dictum*—by Mr. Justice Cardozo v. *Baldwin* v. *Seelig, Inc.*, 294 U. S. 511

(1935), where, speaking for a unanimous Court, he said (p. 528):

> "In licensing or prohibiting the sale of intoxicating liquors a state does not attempt to neutralize economic advantages belonging to the place of origin."

And we further strongly urge this Court to strike down the Washington statutes because (1) they are not revenue statutes; (2) they are not "prohibition" statutes; (3) they are totally unrelated to public health, safety and general welfare; but (4) are solely designed "to neutralize economic advantages belonging to the place of origin" (*Baldwin* v. *Seelig, Inc., supra*).

Later cases arising under or construing the Twenty-first Amendment are not hostile to our contentions.

In two cases "reciprocity" statutes were upheld. *Indianapolis Brewing Co.* v. *Liquor Control Commission,* 305 U. S. 391 (1939); *Finch & Co.* v. *McKittrick,* 305 U. S. 395 (1939). In *Mahoney* v. *Triner Corp.,* 304 U. S. 401 (1939), it was held that Minnesota could exclude liquor containing more than 25% of alcohol by volume, unless it bore a brand name registered in the Patent Office of the United States, obviously a health measure aimed against inferior liquors injurious to health.

We have found no case extending the protection of the Twenty-first Amendment to a statute adopted from economic motivations alone.

(3)

Two associations have been active in the liquor industry in the United States. One is the National Conference of State Liquor Administrators and the other is the National Alcoholic Beverage Control Association. In 1952 these

two bodies published a report of their Joint Committee and entitled it *Trade Barriers Affecting Interstate Commerce in Alcoholic Beverages.* Under the arresting caption, "Perversion of High Purposes Denounced", the Report states (p. 12):

> "Under the 21st Amendment, each state has the right to determine what is needed in the way of regulation and control of the alcoholic beverage businesses within its borders to protect the health, welfare, safety and morals of its people.
>
> As recorded in our first report, we found that 'alcoholic beverage control should be commensurate with its purposes.' *It is significant that nowhere has it ever been expressly stated or even implied that a purpose of control is to protect home industry or agriculture from out of state competition.* Yet it is evident that by statute, rule and regulation individual states have attempted to justify measures that contribute nothing to control. This, we find, is a perversion of the high purposes and sound logic of state control and we denounce it unequivocally.
>
> We believe that the purposes of the 21st Amendment to vest complete control of the alcoholic beverage industries in the individual states must not be distorted by legislative enactments or judicial interpretations, and that the states should continue in possession of the rights and prerogatives of alcoholic beverage control. We are equally certain, however, that in the enjoyment and exercise of these rights the states should honestly respect the purposes of that Amendment and that in shaping control procedures they should be guided accordingly. We fear that continued refusal to limit their interference with interstate commerce to measures which are reasonably related to control and which are motivated by a bona fide desire to accomplish its proper objectives will lead ultimately to counter-measures which will adversely affect the rights of the States in the field of control." (Italics in the original.)

(4)

If this Court regards what was said in *State Board of Equalization of California* v. *Young's Market Co., supra*, as directly pertinent to the instant issues, and as hostile to our contentions, then we ask this Court to overrule it.

On principle, we regard it as a sound proposition of law to say that the Twenty-first Amendment was intended not to augment State power to new dimensions but to restore to validity the case-law of pre-Prohibition days.

Given the premise, which on this record is indisputable, that Washington recognizes wine manufacture as lawful and is bent on encouraging it as an "infant [or should we say "adolescent"?] industry", then, we submit, nothing in the Twenty-first Amendment prevents this Court from restoring to authority its own words in *Scott* v. *Donald*, 165 U. S. 58 (1897). This Court there said (p. 101):

> "It is sufficient for the present cases to hold, as we do, that when a State recognizes the manufacture, sale and use of intoxicating liquors as lawful, it cannot discriminate against the bringing of such articles in, and importing them from other States; that such legislation is void as a hindrance to interstate commerce and an unjust preference of the products of the enacting State as against similar products of the other States."*

We, therefore, with great deference, ask this Court to hold, notwithstanding whatever it may have heretofore said, that neither the Webb-Kenyon Act (37 Stat. 699) nor the Twenty-first Amendment, viewed in the light of history, was adopted for the benefit of "wet" States but only for the benefit of the "dry". It was adopted to make "dry" states drier, not "wet" states wetter. The effec-

*See also *Walling* v. *Michigan*, 116 U. S. 446, 457 (1886).

ment of this distinction in *State Board* v. *Young's Market Co., supra,* destroys the weight ratio of history to logic announced by Mr. Justice HOLMES in *New York Trust Co.* v. *Eisner,* 256 U. S. 345, 349 (1921).

The exception to the Commerce Clause created to aid States which have *denounced wines and liquors as noxious* should not be extended to aid States which seek to *promote their consumption.*

(5)

We ask leave to call the Court's attention to two case-notes in the law reviews in which the editors have been so bold as to criticize *State Board* v. *Young's Market Co., supra.*

In 11 Temple L. Q. 247 (Jan., 1937), the comment was (p. 249):

> "It is submitted that to have declared the discriminatory laws unconstitutional would have attained a more desirable result. As the history of the amendment shows, the true intent of its framers was evidently to prevent the importation of intoxicants contrary to the laws enacted in pursuance of the legitimate police power of a state. There was no thought of allowing unfair discrimination by states which recognize the legality of the use of intoxicating liquor."

In 7 Geo. Wash. L. Rev. 402 (Jan., 1939), the editor, giving free rein to his imagination, wrote (p. 409):

> "It is now not without the realm of possibility that we may see one state sending ambassadors into other states seeking to barter trade treaties in respect to intoxicating liquor."

(6)

We suggest that the Twenty-first Amendment would be given its full measure of influence and effect if this Court were to hold that it was intended to preserve to the States *normal police powers*, unfettered by the limitations upon State powers which other portions of the Constitution impose. The States may still, if they wish to, denounce intoxicating liquors as *capita lupina*, and forbid their importation for use and consumption. Thus, they retain their traditional powers. "Certainly", said this Court in *Pabst Brewing Co.* v. *Crenshaw*, 198 U. S. 17, 26 (1905), "the regulation of the sale of liquor is essentially a police power."

Since control over liquor importations rests on the police power, the States have never possessed (and, we maintain, did not acquire under the Twenty-first Amendment) the right to impede the importation of wines and liquors from other States for the sole purpose of aiding domestic wineries. In other words, they may not promote native wine (or liquor) enterprises, and then denounce because imported that which they cherish and foster because native. That is the very essence of the evil which the Commerce Clause was designed to stamp out. To sanction such measures would turn the clock back to colonial times, and "invite a speedy end to our national solidarity". *Baldwin* v. *Seelig, Inc.*, 294 U. S. 511, 523 (1935).

CONCLUSION

Leave should be granted to the State of California to file its complaint, and to the State of New York to file this brief *Amicus Curiae*.

March 20, 1958.

Respectfully submitted,

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The Capitol,
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PAXTON BLAIR,
Solicitor General,
of Counsel.

APPENDIX "A"

NEW YORK CROP REPORTING SERVICE
19TH FLOOR STATE OFFICE BUILDING
ALBANY 1, N. Y.

UNITED STATES
DEPARTMENT OF AGRICULTURE
Agriculture Marketing Service

NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS
Bureau of Statistics

February 1958

SURVEY OF WINERIES AND GRAPE PROCESSING PLANTS NEW YORK STATE—1957

This report briefly summarizes the grape survey made in New York State following completion of the 1957 crop harvest. This is the fourth year that the survey has been made. The information contained in this report was obtained by contacting all wineries and processing plants licensed by the State of New York who indicated that they handled grapes. A questionnaire was sent to each of the firms involved.

All of the firms contacted returned a completed questionnaire—a continuation of the excellent cooperation experienced in previous surveys. The cooperation of these wineries and grape processors is gratefully acknowledged for without their assistance this report would not be possible.

Of the 39 firms contacted, 31 reported actually processing grapes while the other 8 firms indicated that they had either sold all of the grapes they handled as fresh grapes to other processors and fresh fruit dealers, or had handled

no grapes in 1957. The 31 firms which processed grapes reported that they had handled a net tonnage (after accounting for plant-to-plant movement) of 65,490 tons of grapes of all varieties. In 1956, a total of 102,408 tons were processed in New York State plants.

While the total tonnage of grapes handled by New York State plants was smaller in 1957 than in 1956, the quantity of grapes brought in from other states was larger than in 1956. Imports from Canada were smaller in 1957 than in 1956. The total inshipments from other states and Canada combined for 1957 exceeded the total inshipments for 1956 and made up a higher proportion of grapes handled in New York State plants than in 1956. This resulted from a sharp reduction in size of crop in New York this year compared with last year. Of the 65,490 tons of grapes taken into New York State plants for processing in 1957, 60,751 tons came from within the State, 1,312 tons were imported from Canada, and 3,427 tons came from other states. Of the 102,408 tons of grapes taken into New York State plants in 1956 97,961 tons came from within the State, 2,244 tons were imported from Canada and 2,203 tons came from other states.

In 1957, the 60,751 tons of New York grapes came from the following producing areas listed in order of importance: Chautauqua-Erie, 41,190 tons or 67.8 percent; Finger Lakes, 14,314 tons or 23.6 percent; Hudson Valley 2,542 tons or 4.2 percent; Niagara 2,403 tons or 3.9 percent; and other New York areas 302 tons or 0.5 percent.

In 1956 the 97,961 tons of New York grapes handled in New York State plants came from the following producing areas: Chautauqua-Erie, 63,767 tons or 65.1 percent; Finger Lakes 25,934 tons or 26.5 percent; Hudson Valley

4,743 tons or 4.8 percent; Niagara 2,916 tons or 3.0 percent; and other New York areas 601 tons or 0.6 percent.

The Concord variety makes up the bulk of the New York grapes processed in the State. This is also true of the grapes brought in from other states and Canada. Other leading varieties processed in the State include in their order of importance: Catawba, Delaware, Niagara, Elvira, and Fredonia.

Of the 65,490 tons of grapes processed in 1957, 50,196 tons or 76.7 percent were used to make sweet juice as the product of first utilization or primary use in the plant where the fresh grapes were received; 12,203 tons or 18.6 percent were used to make wine and 3,091 tons or 4.7 percent were used for other purposes such as stemmed and crushed, pulped, and de-seeded. In 1956, 78,566 tons or 76.7 percent were used to make sweet juice; 14,429 tons or 14.1 percent were used to make wine and 9,413 tons or 9.2 percent were used for other purposes.

Since the Concord variety made up about 89 percent of the total quantity of grapes taken into New York State plants, it is not surprising that it is the most important variety in each of the three utilization categories. With the exception of the Fredonia variety however, all other varieties were used primarily for making wine.

Average prices paid for New York grapes, as reported by wineries and processing plants are summarized in table 4, for the more important varieties. Since a large part of the Concord and Fredonia tonnage is handled on a cooperative or profit-sharing basis, no attempt was made to arrive at an average price for these two varieties in 1957.

[Statistical tables omitted]

Appendix "C".

APPENDIX "B"

Wine: Taxable withdrawals and premises operated for the fiscal year 1957, New York and United States

	Taxable withdrawals		Premises Operated	
	New York	*United States*	*New York*	*United States*
	1,000 gallons		*Number*	
Still wines	15,479	139,920	59	568
Effervescent wines	933	2,123	24	113
Vermouth	1,293	3,424	32	132
Other special nature wines	22	932	4	19

Source: U. S. Treasury Department, Internal Revenue Service annual report "Statistics" relating to the Alcohol and Tobacco Industries—Fiscal year ended June 30, 1957

APPENDIX "C"

Statistics Relating to the Alcohol and Tobacco Industries, Fiscal Year ended June 30, 1957, issued by U. S. Treasury Department, Internal Revenue Service.

Production of Wine—New York and United States—Fiscal Year 1957

	New York	*United States*
	Thousand Gallons	
Still Wines*	8,103	148,792
Vermouth	1,515	3,742
Other Special Nature Wines	51	1,198
Effervescent Wines	1,094	2,479

* Represents the amount removed from fermenters exclusive of sub-standard wines produced as distilling material for the production of brandy.

Certificate of Service

The undersigned, a member of the bar of the Supreme Court of the United States, and of counsel to the Attorney General of the State of New York who seeks to file a brief herein as *amicus curiae*, hereby certifies:

That on the 25th day of March, 1958, he served the within and foregoing "MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE AND BRIEF OF AMICUS CURIAE IN SUPPORT OF COMPLAINT" upon the State of Washington, the defendant, as prescribed by Rules 9 and 33 of this Court, by depositing in the post office maintained by the United States government in The Capitol, Albany, New York, two copies of the said motion and brief, securely enclosed in an envelope, air mail postage prepaid, addressed to each of the following officials of said defendant state at his post office address as shown below:

Honorable Albert D. Rosellini,
Governor of the State of Washington,
State Capitol,
Olympia, Washington.

Honorable John J. O'Connell,
Attorney General of the State of Washington,
State Capitol,
Olympia, Washington.

At the same time he deposited in the same post office two further copies of the said motion and brief similarly enclosed with postage prepaid, addressed to each of the following officials of the plaintiff state at his post office address as shown below:

Honorable Goodwin J. Knight,
Governor of the State of California,
State Capitol,
Sacramento, California.

Certificate of Service.

Honorable Edmund G. Brown,
Attorney General of the State of California,
State Building,
San Francisco 2, California.

PAXTON BLAIR
Solicitor General of the State
of New York